### TWENTY-THIRD DAY

(Thursday, February 14, 1957)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin Martin Ashley Moffett Bracewell Moore Bradshaw Owen Colson Parkhouse Fly **Phillips** Fuller Ratliff Gonzalez Reagan Hardeman Roberts Hazlewood Rogers Herring Secrest Kazen Smith Krueger Willis Wood Lane Lock

### Absent-Excused

Hudson

Weinert

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

### Leaves of Absence

Senator Weinert was granted leave of absence for today on account of illness in the family on motion of Senator Aikin.

Senator Hudson was granted leave of absence for today on account of important business on motion of Senator Owen.

### Senate Resolution 130

Senator Phillips offered the follow-

ing resolution:

Whereas, We are honored today to have in the gallery students of the fourth, fifth and sixth grades of Stewart Elementary School of Hitchcock, Texas, accompanied by their Student Council Sponsor, Mrs. Faye Greenlee; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and

Whereas, These fine young American citizens are here to observe and learn firsthand the workings of their State Government; now, therefore, be it

Resolved, That we officially recognize and welcome this class and commend them for their interest, and that a copy of this resolution, properly indorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Phillips by unanimous consent presented the students and sponsor to the Members of the Senate.

### Senate Resolution 131

Senator Moore offered the following resolution:

Whereas, Mr. Jack A. Lewallen, an outstanding citizen of Austin, Texas, is recuperating from a recent illness in the M. D. Anderson Hospital, Houston, Texas; and

Whereas, Mr. Lewallen who is one of the outstanding leaders in his field and his tremendous energy and efforts in behalf of the people of the State have contributed greatly in helping to work out our fiscal problems; and

Whereas, The Members of the Senate are sorry to hear of his illness; and

Whereas, It is the desire of the Senate to express our hope for his speedy recovery; now, therefore be it

Resolved, That this expression of our best wishes be extended to Mr. Lewallen; and that he be furnished with a copy of this Resolution as a token of our esteem.

### MOORE

Signed—Ben Ramsey, Lieutenant Governor; Aikin, Ashley, Bracewell, Bradshaw, Colson, Fly, Fuller, Gonzalez, Hardeman, Hazlewood, Herring, Hudson, Kazen, Kruger, Lane, Lock, Martin, Moffett, Owen, Parkhouse, Phillips, Ratliff, Reagan, Roberts, Rogers, Secrest, Smith, Weinert, Willis, Wood.

The resolution was read.

On motion of Senator Wood and by unanimous consent the names of the Lieutenant Governor and all the Senators were added to the resolution as signers thereof.

The resolution was then adopted.

### Senate Resolution 132

Senator Moffett offered the following resolution:

Whereas, We are honored today to have as a visitor in the Senate Mr. Clyde Smith, prominent citizen and member of the Fire Department of the City of Vernon, Texas; and

Whereas, We desire to welcome this distinguished visitor to the Capitol Building and Capital City; now, therefore, be it

Resolved, That his presence be recognized by the Senate of Texas and that he be extended the official welcome of the Senate.

The resolution was read and was adopted.

### Message from the House

Hall of the House of Representatives Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

- H. J. R. No. 1, A joint resolution "Proposing an amendment to Section 5 and 24 of Article III and Section 17 of Article IV of the Constitution of the State of Texas so as to provide for annual sessions of the Legislature and changing the compensation, per diem and travel expense of the Lieutenant Governor, the Speaker of the House of Representatives and the Members of the Legislature; providing for an election; prescribing the form of ballot and providing for the necessary proclamation and publica-
- S. B. No. 164, A bill to be entitled "An Act ratifying and validating an election heretofore held in and throughout Jefferson County, Texas, upon the question of authorizing the issuance of \$10,400,000 road bonds of said County and levying a tax in payment thereof; ratifying and validating the petition for such election, the order calling such election and the notice thereof, the ballots used therenotice thereof, the ballots used there-voting machines are used; and declarat, and all other orders passed by the ing an emergency."

Commissioners' Court of said County in respect thereto, including the order declaring the result of said election; authorizing the Commissioners' Court and proper officers of Jefferson County to complete the issuance of such bonds; authorizing the Commissioners' Court and officers of said County to levy, assess and collect annually a general ad valorem tax upon all taxable property in said County sufficient to pay the interest on the said bonds and the principal thereof as they mature; declaring this Act to be for the further maintenance of roads; declaring intention as to other laws relating to streets; and declaring an emergency."

- H. B. No 382, A bill to be entitled "An Act to repeal Section 21 of Article V of Chapter 519, Acts of the Fifty-fourth Legislature, 1955, which was a special provision prohibiting executive heads or the administrative staff of higher education agencies of this State from being reimbursed for official travel expenses to Austin during sessions of the Texas Legislature without certain advance approval; and declaring an emergency.
- S. B. No. 18, A bill to be entitled "An Act regulating the manufacture, sale, offering for sale, exposing for sale and distribution for sale of commercial feed as defined in this Act in this State; containing a short title; defining terms; regulating the manufacture, sale and distribution of "Customer-Formula Feed," "Special Formula Feed" and "Made To Order Feed"; providing a penalty; etc., and declaring an emergency.'
- H. C. R. No. 18, Granting Cola-Cola Bottling Company permission to sue the State of Texas.
- H. C. R. No. 23, To grant permission to Southern Community Gas Company to sue the State of Texas.
- H. B. No. 52, A bill to be entitled "An Act relating to aid to voters; amending Section 95 of the Texas Election Code so as to allow a voter who is entitled to assistance to select the person to assist him in preparing his ballot; amending Section 15 of Section 79 of the Texas Election Code so as to provide for assistance to physically incapacitated voters where

- H. B. No. 143, A bill to be entitled "An Act amending Section 35 of the Election Code of Texas, codified as Article 5.03 of Vernon's Texas Election Code, relating to qualifications for voting in elections for the purpose of issuing bonds or otherwise lending credit or expending money or assuming debt, by adding a provision stating the conditions under which property shall be deemed to have been duly rendered for taxation; repealing conflicting laws; providing for severability; and declaring an emergency."
- H. B. No. 173, A bill to be entitled "An Act regulating the handling and sale of chicken eggs within this State; placing administration of the Act in the Commissioner of Agriculture; providing for the establishment of standards of size and quality of eggs and for the grading and label-ling of eggs; providing for the licensing of egg retailers, dealers, wholesalers, processors and brokers and for payment of license fees; providing for certain exemptions; prescribing offenses and penalties; providing for financing of the program; making other provisions relative to the administration and enforcement of the Act; providing for severability; and declaring an emergency."
- H. B. No. 181, A bill to be entitled "An Act authorizing the possession of certain devices for catching fish or shrimp under specified circumstances in Willacy County Navigation District; repealing all laws or parts of laws in conflict; and declaring an emergency."
- H. B. No. 221, A bill to be entitled "An Act providing more adequate means for Eligible Cities to prevent contamination of their water supplies and the water of the Trinity watershed, thus increasing the amount of water available for domestic and municipal use; to obtain more efficient and economical sewage transportation and disposal (including treatment), and to enable such cities to render adequate water and sewer service and to safeguard the public health; defining eligible cities as those situated wholly or partially within the boundaries of Trinity River Authority of Texas; authorizing such cities to make contracts with the Authority for performance of such services, and to make payments thereunder from the revenues of their

- waterworks or sanitary sewer systems, or both, prescribing alternative procedures for making such contracts, requiring an election in instances where the city's obligation to the Authority is payable wholly or partially from ad valorem taxes; prescribing further duties of eligible cities after making such contracts; requiring the Attorney General to examine such contracts and prescribing the effect of his approval; ratifying contracts between the Authority and eligible cities, heretofore made; prescribing a severability clause; enacting other provisions related to the subject and declaring an emergency."
- H. B. No. 241, A bill to be entitled "An Act prohibiting the hunting or running of deer in Brazoria County, Matagorda County, Fort Bend County and Wharton County, by the use of dogs; providing a penalty; providing a repealing clause and declaring an emergency."
- H. B. No. 242, A bill to be entitled "An Act amending Subdivisions 6 and 9, Section 35, Texas Election Code (subdivisions 6 and 9, Article 5.05, Vernon's Election Code), so as to change the time for counting absentee ballots in elections in which paper ballots are used both for absentee voting and for voting at regular polling places; and declaring an emergency."
- S. C. R. No. 5, Authorizing B. F. Clark and Wife, Winnie Mae Clark, to sue the State of Texas.
- S. C. R. No. 8, Granting S. F. Bowser Company, Inc., permission to sue the State for recovery of Franchise taxes and/or filing fees illegally collected.
- S. C. R. No. 12, Granting permission to Midway Gas Company to sue the State.
- S. C. R. No 16, Continuing the Harris County Home Rule Commission.
- sewer service and to safeguard the public health; defining eligible cities as those situated wholly or partially within the boundaries of Trinity River Authority of Texas; authorizing such cities to make contracts with the Authority for performance of such services, and to make payments thereunder from the revenues of their

peals out of the fees of office; specifically suspending all laws and parts of laws in conflict herewith; and declaring an emergency."

S. B. No. 109, A bill to be entitled "An Act relating to pensions of policemen, firemen, and fire-alarm operators, in cities having a population of more than 350,000 and less than 430,-000 inhabitants, according to the last preceding Federal census; amending Sections 7 and 8, of Chapter 105, page 134, Acts of Forty-seventh Legislature, 1941, as amended (commonly referred to as Vernon's Texas Civil Statutes Article 6243f); amending Section 7, thereby changing the manner, method and requirements of eligibility and participation in said pension fund; by amending Section 8, by providing from and after January 1, 1959, for the compulsory retirement of members of pension fund at age 65, with 30 years service and 30 years of pension fund contribution, and providing for loss of pension and benefits upon service after age of 65, and declaring an emergency.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

### Senate Resolution 133

Senator Herring offered the following resolution:

Whereas, We are honored today to have in the gallery the first grade class of Ridgetop School in Austin, Texas, accompanied by Mrs. Frances Mayo and Mrs. Sally Wilson, their sponsors; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and

Whereas, These fine young American citizens are here to observe and learn first-hand the workings of their State Government; Now, therefore, be it

Resolved, That we officially recognize and welcome this class and commend them for their interest, and that a copy of this resolution, properly indorsed, bearing the official seal of the Senate, be mailed to their class in recognition of their visit.

The resolution was read and was adopted.

Senator Herring by unanimous consent presented the students and sponsors to the Members of the Senate.

### Reports of Standing Committees

Senator Hardeman submitted the following reports:

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred S. C. R. No. 26, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass with attached committee amendment, and be printed.

HARDEMAN, Vice-Chairman.

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred H. B. No. 91, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

HARDEMAN, Vice-Chairman.

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred S. B. No. 154, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass with attached committee amendment, and be printed.

HARDEMAN, Vice-Chairman.

Senator Lane submitted the following reports:

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. B. No. 200, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. B. No. 277, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 81, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 230, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Senator Colson submitted the following reports:

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred S. B. No. 149, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

COLSON, Chairman.

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred S. B. No. 207, have had the same under consideration, and we are instructed to

report it back to the Senate with the recommendation that it do pass and be printed.

COLSON, Chairman.

Austin, Texas, February 14, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred S. B. No. 208, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

COLSON, Chairman.

## Senate Bills and Resolutions on First Reading

The following bills and resolutions were introduced, read first time and referred to the committee indicated:

By Senator Krueger:

S. B. No. 241, A bill to be entitled "An Act creating a conservation and reclamation district under the provisions of Section 59, Article 16 of the Constitution of Texas, to be known as "The Lee County West Yegua Water Control and Improvement District No. 2"; prescribing its powers and duties and providing for a governing body thereof; making the District subject to the statutes relating to water control and improvement districts except as otherwise provided; enacting other provisions relating to the subject; and declaring an emergency."

To the Committee on Water and Conservation.

By Senator Bradshaw:

S. B. No. 242, A bill to be entitled "An Act to amend Article 4619 of the Revised Civil Statutes of Texas, 1925 (Acts 1840, p. 3; G. L., vol. 2, p. 177; Acts 1913, p. 61; Acts 1927, 40th Leg., p. 219, Ch. 148), to add thereto a new section No. 6 so as to provide that married women shall have the control, management and disposition of their contracts of life insurance or annuity, subject to nullification of the provisions of this Act by the husband by notice to the insurance company."

To the Committee on State Affairs.

By Senator Bradshaw:

S. B. No. 243, A bill to be entitled

"An Act amending Article 3.40 of the provisions of Senate Bill 236, known as the Insurance Code, Acts 1951, 52nd Legislature, pertaining to investments by life, health or accident insurance companies in real estate by adding to said Article a paragraph permitting such companies to acquire, secure, hold and convey, in addition to real property now authorized by law, real property as an investment for the production of income subject to certain restrictions, limitations and exceptions; repealing conflicting laws and parts of laws to the extent of such conflict; and declaring a nemergency."

To the Committee on Insurance.

By Senators Bradshaw and Roberts:

S. B. No. 244, A bill to be entitled "An Act amending Article 7500a of Subsection 2 of Chapter 1 of Title 128 of the Revised Civil Statutes of Texas, 1925, providing for the construction of dams on private property for certain purposes without the necessity of securing a permit therefor; and declaring an emergency."

To the Committee on Water and Conservation.

By Senator Lock:

S. B. No. 245, A bill to be entitled "An Act authorizing any incorporated city or town to issue bonds to refund outstanding bonds payable from and secured by a pledge of revenues derived from its electric light and power system, gas system, sewer system, or any combination of two or more of such systems, and containing provisions relating to said refunding bonds; providing that the provisions of this Act shall be cumulative of other laws; providing a severability clause; and declaring an emergency."

To the Committee on State Affairs.

By Senator Wood:

S. B. No. 246, A bill to be entitled "An Act relating to petit juries in counties using the jury wheel; amending Article 2096 of the Revised Civil Statutes of Texas, 1925, so as to permit the drawing of additional lists of petit jurors during a term of court; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Wood:

counties using the jury wheel; amending Articles 2097 and 2099 of the Revised Civil Statutes of Texas, 1925, relating to the preparation and de-livery of lists of petit jurors and to disposition of the cards containing the names of the jurors; and declar-ing an emergency."

To the Committee on Jurisprudence.

By Senator Wood:

S. B. No. 248, A bill to be entitled "An Act to amend Article 2095, Revised Civil Statutes of Texas, as amended by Acts, 1929, 41st Legislature, page 263, Chapter 116, and as amended by Acts, 1949, 51st Legis-lature, page 720, Chapter 383; and declaring an emergency.'

To the Committee on Jurisprudence.

By Senator Parkhouse:

S. J. R. No. 13, Proposing an amendment to Subsection (a) of Section 62, Article XVI of the Constitution of Texas, relating to establishment of a retirement, disability and death compensation fund for officers and employees of the State.

To the Committee on Constitutional Amendments.

By Senator Martin:

S. J. R. No. 14, Proposing an amendment to Article 4, to be known as Section 27 of the Constitution of the State of Texas, providing that the Legislature be authorized to pass laws for the purpose of recall of certain State, County and District officials, and providing that an enabling act should not be invalid because of its anticipatory character.

To the Committee on Constitutional Amendments.

### Senate Concurrent Resolution 29

Senator Bradshaw offered the following resolution:

S. C. R. No. 29, Granting Jack E. Pratt permission to sue the State of

Whereas, Jack E. Pratt, doing business as the Texas Distributing Company, alleges that he owns a tract of land east of Mineral Wells, Texas, abutting the entrance to Camp Walters and in 1953 the State Highway Commission constructed Highway 180 on 21 feet of his frontage. He also S. B. No. 247, A bill to be entitled alleges that the Parker County Com-"An Act relating to petit juries in | missioners Court conveyed this strip

to the State in 1943 by quitclaim deed and in truth and fact the county never had title to the land; and

Whereas, Jack E. Pratt alleges that the present highway is paved within one foot of his business entrance and the only remedy he now has is to sue the State of Texas for conversion of his land. He alleges that the highway has restricted the use of his business property and at the present time his customers have to park on the right of way which belongs to him and this condition creates a traffic hazard; now,

therefore be it

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That Jack E. Pratt, doing business as the Texas Distributing Company, be and he is hereby given and granted permission to sue the State of Texas in any court of competent jurisdiction to determine liable as a result of the above alleged act, and further to determine what damage, if any, that Jack E. Pratt is entitled to recover from the State of Texas by reason of any wrongful act committed by the State of Texas or any of its agencies or agents in connection with the above described transaction; and be it further

Resolved, That service of citation and any other legal process shall be served upon both the Chairman of the Texas Highway Commission and the Attorney General of the State of Texas. Service of process upon these two officers shall have the same force and effect as the service of process upon a defendant in any other civil case, according to the Rules of Civil Procedure promulgated and adopted by the Supreme Court of Texas; and

be it further

Resolved, That any party to the suit shall have the right of appeal as is provided for in other civil cases; and be it further

this resolution is to grant permission to adjourn.

to Jack E. Pratt to bring suit against the State of Texas, No admission of liability or any fact is made in any way by passage of this Resolution; but on the contrary, it is specifically provided that the facts upon which Jack E. Pratt seeks to recover must be proved in court as in other civil cases; and be it further

Resolved, That any and all defenses which the State of Texas may have shall be pleaded by the State, and none of the defenses which the State of Texas may have are in any way waived by the passage of this reso-

lution.

The resolution was read and was referred to the Committee on Jurisprudence.

### Bill Signed

The President announced the signwhether or not the State of Texas is ing in the presence of the Senate after the caption had been read, the following enrolled bill:

> H. B. No. 166, A bill to be entitled "An Act authorizing and directing the Board of Regents of the State Teachers College to execute and deliver to the State Highway Commission right of way easements to two parcels of land in Randall County for the construction and maintenance of U. S. Highways 60 and 87 extending along and across certain State property owned by the State of Texas for the use and benefit of West Texas State Teachers College, and declaring an emergency."

### Adjournment

On motion of Senator Hardeman the Senate at 11:05 o'clock a.m. adjourned until 10:30 o'clock a.m. on Monday, February 18, 1957.

### Record of Vote

Senator Phillips asked to be re-Resolved, That the sole purpose of corded as voting "Nay" on the motion

### In Memory of

# George Sessions Perry

Senator Secrest offered the following resolution:

(Senate Resolution 134)

Whereas, The Texas Senate and the nation as a whole has received the tragic news of the untimely death of George Sessions Perry; and

Whereas, This tragedy has brought great loss and sorrow to his family, to his friends, and to his many admirers who have read and benefited from his works; and

Whereas, George Sessions Perry is one of the foremost writers of our age; and

Whereas, George Sessions Perry was the son of Mr. and Mrs. Andrew Preston Perry; and

Whereas, George Sessions Perry was born in Rockdale, Texas, May 5, 1910, and attended Allan Academy at Bryan, Southwestern University at Georgetown; and

Whereas, George Sessions Perry was married to Clair Hodges of Beaumont, Texas; and

Whereas, During World War II, George Sessions Perry was a war correspondent of much acclaim for the New Yorker Magazine and the Saturday Evening Post; and

Whereas, During all of the prominent life of George Sessions Perry he was always considered a Texan and often returned to his home in Rockdale, Texas; now therefore, be it

Resolved By the Senate of Texas, That we express our sincere sympathy and regrets, and that copies of this resolution be sent to the wife of George Sessions Perry and that a page of the Senate Journal be set aside as a Memorial to him and that when the Senate adjourns today it do so out of respect to the memory of this Texan.

SECREST

Signed—Ben Ramsey, Lieutenant Governor; Aikin, Ashley, Bracewell, Bradshaw, Colson, Fly, Fuller, Gonzalez, Hardeman, Hazlewood, Herring, Hudson, Kazen, Krueger, Lane, Lock, Martin, Moffett, Moore, Owen, Parkhouse, Phillips, Ratliff, Reagan, Roberts, Rogers, Smith, Weinert, Willis, Wood.

The resolution was read.

On motion of Senator Moore and by unanimous consent the names of the Lieutenant Governor and all the Senators were added to the resolution as signers thereof.

The resolution was then adopted by a rising vote of the Senate.

## In Memory of

# Hartram Miles Deems

Senator Gonzalez offered the following resolution:

(Senate Resolution 135)

Whereas, Almighty God in His infinite wisdom called from this earthly life, Hartram Miles Deems of San Antonio, Texas; and

Whereas, Mr. Deems was 52 years of age and a reporter on the San Antonio News for twenty-eight years; and

Whereas, His death is widely mourned by the police department personnel because of his reporting experience on the police beat, and also by city and county officials; and

Whereas, Mr. Deems was born in Newark, Ohio, and moved to Wichita Falls with his parents when he was sixteen. He graduated from high school there and attended Midwestern University, later working in oil fields and other jobs before joining the San Antonio News; and

Whereas, He is survived by a son, Miles Deems of Corpus Christi; his mother, Mrs. Laura Deems of San Antonio; one brother, Crawford A. Deems, Leesburg, Florida; and one sister, Mrs. E. S. Weldon of Louisville, Kentucky; and

Whereas, It is the desire of the Senate to pay tribute to the memory of this fine public spirited citizen who contributed so much to his community and especially to the City of San Antonio; now, therefore, be it

Resolved, By the Senate of Texas, That we extend our sincere sympathy to the family of Hartram Miles Deems; that a copy of this Resolution be sent to each member of his family and that a page in today's Journal be devoted to his memory; and that when the Senate adjourns today, it do so in memory of Hartram Miles Deems.

The resolution was read and was adopted by a rising vote of the Senate.